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CARRIER REQUIREMENTS
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CHAPTER 4

CARRIER REQUIREMENTS

1. INTRODUCTION. This chapter, comprised of excerpts from the California Vehicle Code (VC), Title 13 California Code of Regulations 13 CCR, the Federal Motor Carrier Safety Regulations (FMCSR), and the California Education Code (EC), covers general carrier requirements for these vehicles: school buses, school pupil activity buses (SPAB), youth buses, general public paratransit vehicles (GPPV), and farm labor vehicles (FLV). Transportation personnel involved in the operation of these types of vehicles should be familiar with the material contained in this chapter.

2. OWNER'S RESPONSIBILITY - 40001 VC. The following section is quoted from the VC:

40001. (a) It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to cause the operation of the vehicle upon a highway in any manner contrary to law.

(b) It is unlawful for an owner to request, cause, or permit the operation of any vehicle:

(1) Which is not registered or for which any fee has not been paid under this code.

(2) Which is not equipped as required in this code.

(3) Which does not comply with the size, weight, or load provisions of this code.

(4) Which does not comply with the regulations promulgated pursuant to this code, or with applicable city or county ordinances adopted pursuant to this code.

(5) Which is not in compliance with the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code and the rules and regulations of the State Air Resources Board.

(c) Whenever a violation is chargeable to the owner or lessee of a vehicle pursuant to subdivision (a) or (b), the driver shall not be arrested or cited for the violation unless the vehicle is registered in a state or country other than California, or unless the violation is for an offense that is clearly

within the responsibility of the driver. The Department of the California Highway Patrol shall report to the Legislature on or before January 1, 1988, concerning the effects of this subdivision.

(d) Whenever the owner, or lessee, or any other person is prosecuted for a violation pursuant to this section the court may, on the request of the defendant, take appropriate steps to make the driver of the vehicle, or any other person who directs the loading, maintenance or operation of the vehicle, or any other person who gives false or erroneous information in a written certification of actual gross weight, a codefendant. However, the court may make the driver a codefendant only if the driver is the owner or lessee of the vehicle, or the driver is an employee or a contractor of the defendant who requested the court to make the driver a codefendant. If the codefendant is held solely responsible and found guilty, the court may dismiss the charge against the defendant.

(e) In any prosecution under this section, it is a rebuttable presumption that any person who gives false or erroneous information in a written certification of actual gross cargo weight has directed, requested, caused, or permitted the operation of a vehicle in a manner contrary to law in violation of subdivision (a) or (b), or both.

(Ch. 757, Stats. 1993. Effective January 1, 1994)

3. EMPLOYMENT OF PERSON TO DRIVE MOTOR VEHICLE: LICENSE AND MEDICAL CERTIFICATE - 14606 VC. The following section is quoted from the VC:

14606. (a) No person shall employ or hire any person to drive a motor vehicle nor shall he knowingly permit or authorize the driving of a motor vehicle, owned by him or her or under his or her control, upon the highways by any person unless the person is then licensed for the appropriate class of vehicle to be driven.

(b) Whenever any person employs or hires any person, including a subhauler, to drive a class A or class B vehicle, the employer shall ascertain that the person has in his or her possession a medical certificate as provided in subdivision (c) of Section 12804.9 which has been issued within two years prior to the date of the person's employment or hiring.

Whenever the person fails to qualify for a medical certificate on reexamination, the employer shall report that failure to the department.

(Ch. 272 Stats. 1993. Effective August 2, 1993.)

4. DRIVING PROFICIENCY - 13 CCR 1229. The following section is quoted from CCR:

1229. Motor carriers shall require each driver to demonstrate that the driver is capable of safely operating each different type of vehicle or vehicle combination (i.e., vehicles with different controls, gauges, of different size, or requiring different driving skills) before driving such vehicle(s) on a highway unsupervised. The driver's capability to operate the vehicle shall include special equipment such as wheelchair lifts, ramps, or wheelchair tie downs.
(Registered 95, No. 2)

5. EMERGENCY STOPPING SYSTEM (DRIVER FAMILIARITY) - 26508(o) VC. The following section is excerpted from the VC:

26508. . . (o) Every owner or lessee shall instruct and require that the driver be thoroughly familiar with the requirements of this section. The driver of a vehicle or combination of vehicles required to comply with the requirements of this section shall be able to demonstrate the application and release of the emergency system on the vehicle and each vehicle in the combination.
(Ch. 1578, Stats. 1976. Effective November 8, 1967.)

6. COMMERCIAL VEHICLE SAFETY ALLIANCE NORTH AMERICAN UNIFORM OUT-OF-SERVICE CRITERIA - 13 CCR 1239. The following section is quoted from CCR:

1239. (a) *Applicability.* This article shall apply to those vehicles described under (Sections 260, 15210 and 34500 of the California Vehicle Code.

(b) *Incorporation by Reference.* This article incorporates by reference portions of the Commercial Vehicle Safety Alliance North American Uniform Out-of-Service Criteria including Part I, Part II, (with the exception of those items related to waiver of physical disqualification and load securement/tiedowns) and Part III., all references to the Commercial Vehicle Safety Alliance North American Uniform Out-of-Service Criteria in this article are those criteria published on April 1, 1999.

(c) *Availability of Referenced Criteria.* Copies of the Commercial Vehicle Safety Alliance North American Uniform Out-of-Service Criteria can be obtained from:

COMMERCIAL VEHICLE SAFETY ALLIANCE
5430 GROSVENOR LANE, SUITE 130
BETHESDA, MD 20814

(Register 99, No. 32)

7. UNLAWFUL OPERATION - 13 CCR 1230. The following section is quoted from CCR:

1230. No motor carrier shall knowingly require or permit the operation of any vehicle that is not in safe operating condition or not equipped and maintained as required by any law or this chapter; or knowingly require or permit any driver to drive in violation of any law or this chapter.

(a) Out-of-Service Vehicles. Authorized employees of the department may declare and mark any vehicle "out of service" when its hazardous condition or loading appears likely to cause an accident, injury, or breakdown. A vehicle so marked shall not be operated, nor shall the out of service notice be removed, until the vehicle is safe to drive.

(b) Damaged Vehicles. A vehicle damaged by an accident or other cause shall not be driven from the location where the damage occurred until it has been inspected by a qualified person who has determined that the vehicle is safe to drive.

(Register 95, No. 19)

8. VEHICLE INSPECTION APPROVAL CERTIFICATE - 13 CCR 1231. The following section is quoted from 13 CCR:

1231. A vehicle inspection approval certificate designed and furnished by the department shall be displayed in each school bus, SPAB, youth bus, farm labor vehicle, and GPPV pursuant to Vehicle Code Sections 2807, 2807.1, 2807.3, 31401, and 34501.8. The following provisions shall apply to vehicle inspection approval certificates:

(a) Display of Certificate. The certificate shall be placed in a certificate holder provided by the motor carrier and posted in an easy-to-reach and visible area of the driver's compartment of the vehicle for which it was issued. The certificate holder shall be designed so the certificate can be easily inserted and removed and is clearly legible under a transparent covering.

(b) Issuance of Certificate. The certificate shall be issued to the specific vehicle and motor carrier named on the certificate. The certificate will be signed and dated by an authorized employee of the department certifying that on the inspection date the vehicle complied with applicable laws and regulations governing its construction, design, and equipment (and color, if a school bus).

(c) Youth Bus Inspection Fee. The fee for inspection of a youth bus is eighty-five dollars (\$85). When necessary to verify that corrections have been made, not more than one reinspection may be scheduled at each terminal or facility without payment of another inspection fee.

(d) GPPV Inspection. The fee for inspection of a GPPV is fifty dollars (\$50). When necessary to verify that corrections have been made, not more than one reinspection may be scheduled at each terminal or facility without payment of another inspection fee. Application for inspection of GPPVs shall be made to the department on forms provided by the department and shall be accompanied by the prescribed fees.

(Registered 88, No. 34)

9. OPERATION BY MECHANIC OR MAINTENANCE PERSONNEL - 12525 VC. The following section is quoted from the VC. and FMCSR:

12525. Mechanics or other maintenance personnel may operate vehicles requiring certificates issued pursuant to Section 2512, 12517, 12519, 12523, or 12523.5 without obtaining those certificates if that operation is within the course of their employment and they do not transport pupils or members of the public.

(Ch. 1360, Stats. 1990. Effective January 1, 1991.)

10. ENDORSEMENTS - 49 CFR SECTION 383.93. The following section is excerpted from the CFR.

383.93. (a) **General.** In addition to taking and passing the knowledge and skills tests described in Subpart G of this part, all persons who operate or expect to operate the type(s) of motor vehicles described in paragraph (b) of this section shall take and pass specialized tests to obtain each endorsement. The State shall issue CDL endorsements only to drivers who successfully complete the tests.

(b) **Endorsement descriptions.** An operator must obtain State-issued endorsements to his/her CDL to operate commercial motor vehicles which are:

- (1) . . .
- (2) Passenger vehicles
- (3) . . .
- (4) . . .

(c) **Endorsement testing requirements.** The following tests are required for the endorsements contained in paragraph (b) of this section:

- (1) . . .
- (2) **Passenger** - a knowledge and a skill test
- (3) . . .
- (4) . . .

11. VEHICLE INSPECTION AND MAINTENANCE - 13 CCR 1232. The following section is quoted from 13 CCR:

1232. The following provisions apply to the inspection and maintenance of vehicles subject to this chapter.

(a) Preventive Maintenance. Motor carriers shall ensure that all vehicles subject to their control, and all required accessories on the vehicles, are regularly and systematically inspected, maintained, and lubricated to ensure they are in safe and proper operating condition. The carriers shall have a means of indicating the types of inspection, maintenance, and lubrication operations to be performed on each vehicle and the date or mileage when these operations are due. The inspection required by this subsection is more in depth than the daily inspection performed by the driver. Motor carriers shall ensure compliance with this subsection when a vehicle is assigned away from the carrier's regular maintenance facility for periods exceeding normal inspection, maintenance, and lubrication intervals.

(b) Periodic Preventive Maintenance Inspection. School bus, SPAB, and GPPV carriers shall ensure every bus is inspected every 3,000 miles or 45 calendar days, whichever occurs first; or more often if necessary to ensure safe operation. Buses out of service exceeding 45 calendar days need not be inspected at 45-day intervals, provided they are inspected prior to being placed back into service.

This periodic inspection shall as a minimum cover:

- (1) Brake adjustment
- (2) Brake system leaks
- (3) Two-way check valve in dual air systems, alternately draining and recharging primary and secondary air reservoirs
- (4) All tank mounting brackets
- (5) All belts and hoses for wear
- (6) Tires and wheels
- (7) Steering and suspension

(c) Oil or Grease Accumulations. Excessive amounts of grease or oil on the vehicle shall be removed and their cause corrected.

(d) Cleanliness of Buses. Every bus shall be kept clean and free of litter.

(e) Inspector Qualifications. Motor carriers shall ensure that individuals performing inspections, maintenance, repairs or service to the brakes or brake systems of vehicles subject to this chapter shall be qualified in accordance with 49 CFR 396.25 (published October 1, 1993).

(Register 95, No. 32)

NOTE: For a complete guide of preventive maintenance inspection information refer to Highway Patrol Handbook HPH 84.6. This handbook may be purchased at any local CHP Area office.

12. SAFETY COMPLIANCE RATINGS - 13 CCR 1233. The following section is quoted from 13 CCR:

1233. Motor carrier bus terminals and maintenance facilities that are inspected by the Department are assigned safety compliance ratings of "satisfactory," "unsatisfactory" or "conditional" to reflect the carriers' overall compliance with the laws and regulations governing drivers' hours of service, vehicle condition, preventive maintenance practices, and pertinent records. A rating of "satisfactory" means the terminal is in compliance with applicable laws and regulations or has only minor discrepancies in regular preventive maintenance. The terminal's overall compliance is within reasonable bounds. A rating of "unsatisfactory" means the carrier demonstrates continued disregard of statutory or regulatory requirements, has numerous violations, or has serious violations that adversely affect the safe operation of vehicles. A rating of "conditional" means that a terminal, previously rated "unsatisfactory," has been reinspected and is no longer "unsatisfactory," but that actual compliance cannot be determined and a follow-up inspection will be conducted. The department's evaluation of the terminal's potential for overall safe vehicle operation shall be the final determining factor in the rating assigned. A motor carrier contracting to transport passengers in a bus shall give notice to the user and a motor carrier transporting school pupils to or from school or school activities in a school bus or school pupil activity bus (SPAB) shall give notice to the school district superintendent of the carrier's most recent safety compliance rating. Notice may be given by posting the safety compliance rating in the public area of the carrier's terminal or principal place of business or by publishing the rating in the local news media. The carrier shall provide its latest rating upon any request from the public whether received in writing, in person, or by telephone. Safety compliance ratings are also available from the department.

(Register 95, No. 36)

13. REQUIRED RECORDS FOR MOTOR CARRIERS - 13 CCR 1234. The following section is quoted from 13 CCR:

1234. The following records are required:

(a) Driver's Record. Motor carriers shall require each driver and each codriver to keep a driver's record pursuant to Section 1213. Motor carriers shall keep the original copies of all driver's records for 6 months.

(b) Driver's Authorized Vehicles. Motor carriers shall maintain a record

of the different types of vehicles and vehicle combinations each driver is capable of driving as specified in Section 1229.

(c) Driver's Records. School bus, SPAB, youth bus, farm labor vehicle, and GPPV carriers shall maintain a record of required documents for each driver they employ. The carrier shall notify each driver of the expiration date of the documents listed in (1) through (4), and the carrier shall ensure each document is renewed prior to expiration. The record shall contain the following data:

(1) Driver's license class, number, restrictions and expiration date.

(2) Driver's certificate restrictions, expiration date, certificate issuance date and driver's date of birth.

(3) Date medical certificate expires.

(4) Expiration date of driver's first aid certificate, license as a physician and surgeon, osteopath, or registered nurse, or certificate as a physician's assistant or emergency medical technician when such certificate or license is used to obtain a waiver of the first aid examination pursuant to Vehicle Code Section 12522.

(5) Date and number of hours of training specified in Education Code Sections 40080-40090 or Vehicle Code Section 12523 since issuance of the driver's current certificate.

(d) Mileage Records. School bus, SPAB, and youth bus carriers shall keep records of the mileage each bus travels during the fiscal year (July 1 through June 30). These records shall be retained for the current fiscal year plus the previous year.

(e) Daily Vehicle Inspection Reports. Motor carriers shall require drivers to submit a documented daily vehicle inspection report pursuant to Section 1215(b). Reports shall be carefully examined, defects shall be corrected before the vehicle is driven on the highway, and carriers shall retain such reports for at least three months.

(f) Inspection, Maintenance, Lubrication, and Repair Records. Motor carriers shall document each systematic inspection, maintenance, and lubrication, and repair performed for each vehicle under their control. These vehicle records shall be kept at the carrier's maintenance facility or terminal where the vehicle is regularly garaged. Such records shall be retained by the carrier for one year and include at least:

(1) Identification of the vehicle, including make, model, license number, or other means of positive identification

(2) Date or mileage and nature of each inspection, maintenance, lubrication, and repair performed

(3) Date or mileage and nature of each inspection, maintenance, and lubrication to be performed; i.e., the inspection, maintenance, and lubrication intervals

(4) The name of the lessor or contractor furnishing any vehicle

(5) On school bus, SPAB, and GPPV records, the signature of the

person performing the inspection

(g) Temporarily Assigned Vehicle. When a vehicle is garaged at other than the carrier's regular maintenance facility for periods exceeding normal intervals for inspection, maintenance, and lubrication, carriers shall ensure the record(s) indicating the date or mileage and nature of these operations to be performed, are kept in the vehicle.

(h) School Bus Accident Reports. School bus carriers shall maintain a report of each accident that occurred on public or private property involving a school bus with pupils aboard. The report shall contain pertinent details of the accident and it shall be retained for 12 months from the date of the accident. If the accident was not investigated by the CHP, the carrier shall forward a copy of the report to the local CHP within five work days of the date of the accident.

(Register 91, No. 51)

14. TOWING OTHER VEHICLES - 13 CCR 1235. The following section is quoted from 13 CCR:

1235. A school bus or SPAB shall not tow any vehicle. Other buses and farm labor vehicles shall not tow any vehicle except as follows:

(a) Urban or Suburban Service-Farm Labor Vehicle. A bus operated in urban or suburban service by a common carrier, publicly owned transit system, or passenger charter-party carrier, and a farm labor vehicle, may tow a trailer or semitrailer, used to carry property for use by passengers, provided the trailer/semitrailer and property does not exceed a gross weight of 6,000 lbs.

(b) Bus. A bus may tow a trailer-bus pursuant to the provisions of the Vehicle Code.

(c) Bus Under 10,000 lb. GVW. A bus with a gross vehicle weight of less than 10,000 lb may tow any vehicle, pursuant to the provisions of the Vehicle Code.

(Register 83, No. 27)

15. ADDITIONAL REQUIREMENTS FOR SCHOOL BUS, SPAB, AND YOUTH BUS CARRIERS, REPORTING DRIVER STATUS - 13 CCR 1236. The following section is quoted from 13 CCR:

1236. (a) Dismissal. Dismissal of any driver for a cause relating to pupil transportation safety shall be reported by the carrier to the Department of Motor Vehicles within five days of the dismissal date.

(b) Employment or Training Status. Carriers shall notify the local CHP office within 10 calendar days of the hiring of a certified school bus, SPAB, or youth bus driver, or of any driver who fails to receive the training specified in California Education Code Sections 40082, 40083, 40084, 40085 and 40086 or Vehicle Code Section 12523.

(Register 96, No. 41)

16. ADDITIONAL REQUIREMENTS FOR SCHOOL BUS, SPAB, AND YOUTH BUS CARRIERS, REPORTING OF ACCIDENTS - 13 CCR 1237. The following section is excerpted from 13 CCR:

1237. Whenever a school bus, SPAB, or youth bus driver is involved in an accident specified in Section 1219, that requires the Department to be notified immediately by the driver, the carrier shall ensure the accident has been reported within 24 hours to the department and the superintendent of the school district for which the bus was operated. If the driver is physically incapable of reporting the accident, the carrier shall make the required notifications immediately upon becoming aware of such accident.

(Register 83, No. 18)

17. TRANSPORTATION SAFETY PLAN - 39831.3 EC. The following section is quoted from the EC:

39831.3. (a) The county superintendent of schools, the superintendent of a school district, or the owner or operator of a private school that provides transportation to or from a school or school activity shall prepare a transportation safety plan containing procedures for school personnel to follow to ensure the safe transport of pupils. The plan shall be revised as required. The plan shall address all of the following:

(1) Determining if pupils require escort pursuant to paragraph (3) of subdivision (c) of Section 22112 of the Vehicle Code.

(2) (A) Procedures for all pupils in prekindergarten, kindergarten, and grades 1 to 8, inclusive, to follow as they board and exit the appropriate schoolbus at each pupil's schoolbus stop.

(B) Nothing in this paragraph requires a county superintendent of

schools, the superintendent of a school district, or the owner or operator of a private school that provides transportation to or from a school or school activity, to use the services of an onboard schoolbus monitor, in addition to the driver, to carry out the purposes of this paragraph.

(3) Boarding and exiting a schoolbus at a school or other trip destination.

(b) A current copy of a plan prepared pursuant to subdivision (a) shall be retained by each school subject to the plan and made available upon request to an officer of the Department of the California Highway Patrol.

18. INSTRUCTION IN SCHOOL BUS EMERGENCY PROCEDURE AND PASSENGER SAFETY - 39831.5 EC. The following section is quoted from the EC:

39831.5. (a) All pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive, in public or private school who are transported in a school bus or school pupil activity bus shall receive instruction in school bus emergency procedures and passenger safety. The county superintendent of schools, superintendent of school district, or owner/operator of a private school, as applicable, shall ensure that the instruction is provided as follows:

(1) Upon registration, the parents or guardians of all pupils not previously transported in a school bus or school pupil activity bus and who are in prekindergarten, kindergarten, and grades 1 to 6, inclusive, shall be provided with written information on school bus safety. The information shall include, but not be limited to, all of the following:

(A) A list of school bus stops near each pupil's home.

(B) General rules of conduct at school bus loading zones.

(C) Red light crossing instructions.

(D) School bus danger zone.

(E) Walking to and from school bus stops.

(2) At least once in each school year, all pupils in prekindergarten, kindergarten, and grades 1 to 8, inclusive, who receive home-to-school transportation shall receive safety instruction which includes, but is not limited to, proper loading and unloading procedures, including escorting by the driver, proper passenger conduct, bus evacuation, and location of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit. As part of the instruction, pupils shall evacuate the school bus through emergency exit doors.

(3) Instruction on the use of passenger restraint systems shall include, but not be limited to, all of the following:

(A) Proper fastening and release of the passenger restraint system.

(B) Acceptable placement of passenger restraint systems on pupils.

(C) Times at which the passenger restraint systems shall include, but not be limited to, all of the following:

(D) Acceptable placement of the passenger restraint systems when not in use.

(4) Prior to departure on a school activity trip, all pupils riding on a school bus or SPAB shall receive safety instruction which includes, but is not limited to, location of emergency exits, and location and use of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit.

(b) The following information shall be documented each time the instruction required by paragraph (2) of subdivision (a) is given:

- (1) Name of school district, county office of education, or private school.
- (2) Name and location of school.
- (3) Date of instruction.
- (4) Names of supervising adults.
- (5) Number of pupils participating.
- (6) Grade levels of pupils.
- (7) Amount of time taken for instruction.
- (9) Bus driver's name.
- (10) Bus number.
- (11) Additional remarks.

The information recorded pursuant to this subdivision shall remain on file at the district or county office, or at the school, for one year from the date of the instruction, and shall be subject to inspection by the Department of California Highway Patrol.

(Stats 1994, c 831)

19. SCHOOL BUSES: REDUCED VISIBILITY - 34501.6 VC. The following section is quoted from the VC:

34501.6. The governing board of a local educational agency that provides for the transportation of pupils shall adopt procedures that limit the operation of school buses when atmospheric conditions reduce visibility on the roadway to 200 feet or less during regular home-to-school transportation service. Operational policies for school activity trips shall give school bus drivers discretionary authority to discontinue school bus operation if the driver determines that it is unsafe to continue operation because of reduced visibility.

(Ch. 624, Stats. 1986. Operative July 1, 1987.)

20. AUTHORITY OF DISTRICT BOARDS - 13 CCR 1202(b). The following section is excerpted from 13 CCR:

1202. General Provisions.

The general provisions of this subchapter are as follows:

(b) Authority of District Boards. The governing board of any school district, county superintendent of schools, or equivalent private school entity or official, may adopt and enforce additional requirements governing the transportation of pupils. Such requirements shall not conflict with any law or state administrative regulation.

(Register 86, No. 48)

21. FINGERPRINTING CARDS; CRIMINAL HISTORY; CONFIDENTIALITY – 45125 EC. The following section is quoted from the EC:

“45125. (a) (1) Except as provided in Section 45125.01, the governing board of any school district shall require each person to be employed in a position not requiring certification qualifications, except a secondary school pupil employed in a temporary or part-time position by the governing board of the school district having jurisdiction over the school attended by the pupil, to have two fingerprint cards bearing the legible rolled and flat impressions of the person's fingerprints together with a personal description of the applicant prepared by a local public law enforcement agency having jurisdiction in the area of the school district, which agency shall transmit the cards, together with the fee required by subdivision (f), to the Department of Justice; except that any district, or districts with a common board, may process the fingerprint cards if the district so elects.

(2) As used in this section, "local public law enforcement agency" includes any school district and as used in Section 45126 requires the Department of Justice to provide to any school district, upon application, information pertaining only to applicants for employment by the district, including applicants who are employees of another district.

(b) (1) Upon receiving the fingerprint cards, the Department of Justice shall ascertain whether the applicant has been arrested or convicted of any crime insofar as that fact can be ascertained from information available to the department and forward the information to the employing agency submitting the applicant's fingerprints no more than 15 working days after receiving the fingerprint cards. The Department of Justice shall not forward records of criminal proceedings that did not result in a conviction but shall forward information on arrests pending adjudication.

(2) Upon implementation of an electronic fingerprinting system with terminals located statewide and managed by the Department of Justice, the Department of Justice shall ascertain the information required pursuant to this subdivision within

three working days. If the Department of Justice cannot ascertain the information required pursuant to this subdivision within three working days, the department shall notify the school district that it cannot so ascertain the required information. This notification shall be delivered by telephone or electronic mail to the school district. If a school district is notified by the Department of Justice that it cannot ascertain the required information about a person, the school district may not employ that person until the Department of Justice ascertains that information.

(3) In the case of a person to be employed in a position not requiring certification qualifications who is described in subparagraph (A) or (B), the school district shall request the Department of Justice to forward one copy of the fingerprint cards to the Federal Bureau of Investigation for the purpose of obtaining any record of previous convictions of the applicant.

(A) The person has not resided in the State of California for at least one year immediately preceding the person's application for employment.

(B) The person has resided for more than one year, but less than seven years, in the State of California and the Department of Justice has ascertained that the person was convicted of a sex offense where the victim was a minor or a drug offense where an element of the offense is either the distribution to, or the use of a controlled substance by, a minor.

(c) The governing board of a school district shall not employ a person until the Department of Justice completes its check of the state criminal history file as set forth in this section and Sections 45125.5 and 45126, except that this subdivision does not apply to secondary school pupils who are to be employed in a temporary or part-time position by the governing board of the school district having jurisdiction over the school they attend.

(d) The governing board of each district shall maintain a list indicating the number of current employees, except secondary school pupils employed in a temporary or part-time position by the governing board of the school district having jurisdiction over the school they attend, who have not completed the requirements of this section. The Department of Justice shall process these cards within 30 working days of their receipt and any cards in its possession on the date of the amendment of this section by Assembly Bill 1610 of the 1997-98 Regular Session within 30 working days of that date. School districts that have previously submitted identification cards for current employees to either the Department of Justice or the Federal Bureau of Investigation shall not be required to further implement the provisions of this section as it applies to those employees.

(e) A plea or verdict of guilty or a finding of guilt by a court in a trial without a jury or forfeiture of bail is deemed to be a conviction within the meaning of this section, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering of a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information.

(f) (1) The school district shall provide the means whereby the fingerprint cards may be completed and may charge a fee determined by the Department of Justice

to be sufficient to reimburse the department for the costs incurred in processing the application. The amount of the fee shall be forwarded to the Department of Justice with the required copies of applicant's fingerprint cards. The governing board may collect a reasonable fee payable to the local public law enforcement agency taking the fingerprints and completing the data on the fingerprint cards. In no event shall the fee exceed the actual costs incurred by the agency.

(2) The additional fees shall be transmitted to the city or county treasury. If an applicant is subsequently hired by the board within 30 days of the application, the fee may be reimbursed to the applicant. Funds not reimbursed to applicants shall be credited to the general fund of the district. If the fingerprint cards forwarded to the Department of Justice are those of a person already in the employ of the governing board, the district shall pay the fee required by this section, which fee shall be a proper charge against the general fund of the district, and no fee shall be charged the employee.

(g) This section applies to substitute and temporary employees regardless of length of employment.

(h) Subdivision (c) of this section shall not apply to a person to be employed if a school district determines that an emergency or an exceptional situation exists, and that a delay in filling the position in which the person would be employed would endanger pupil health or safety.

(i) Where reasonable access to the statewide, electronic fingerprinting network is available, the Department of Justice may mandate electronic submission of the fingerprints and related information required by this section.

(j) A school district shall request subsequent arrest service from the Department of Justice as provided under Section 11105.2 of the Penal Code.

(k) All information obtained from the Department of Justice is confidential. Each agency handling Department of Justice information shall ensure the following:

(1) No recipient may disclose its contents or provide copies of information.

(2) Information received shall be stored in a locked file separate from other files, and shall only be accessible to the custodian of records.

(3) Information received shall be destroyed upon the hiring determination in accordance with subdivision (a) of Section 708 of Title 11 of the California Code of Regulations.

(4) Compliance with destruction, storage, dissemination, auditing, backgrounding, and training requirements as set forth in Sections 700 through 708, inclusive, of Title 11 of the California Code of Regulations and Section 11077 of the Penal Code governing the use and security of criminal offender record information is the responsibility of the entity receiving the information from the Department of Justice.

(l) Notwithstanding any other provision of law, the Department of Justice shall process pursuant to this section all requests from a school district, an employer, or a human resource agency for criminal history information on a volunteer to be used in a school." **(Revised 3-05)**

22. NON-CERTIFICATED PERSONS EMPLOYED IN MULTIPLE DISTRICTS; DUTIES REGARDING FINGERPRINTS, CRIMINAL HISTORY, LIST OF PERSONS ELIGIBLE FOR EMPLOYMENT; DESIGNATED DISTRICT OR COUNTY SUPERINTENDENT – 45125.01 EC. The following section is quoted from the EC:

“45125.01. (a) For situations in which a person is an applicant for employment, or is employed on a part-time or substitute basis, in a position not requiring certification qualifications in multiple school districts within a county or within contiguous counties, the districts may agree among themselves to designate a single district, or a county superintendent may agree to act on behalf of participating districts within the county or contiguous counties, for the purposes of performing the following duties:

(1) Sending fingerprints to the Department of Justice.

(2) Receiving reports of convictions of serious and violent felonies, criminal history records and reports of subsequent arrests from the Department of Justice.

(3) Maintaining common lists of persons eligible for employment.

(b) The school district or county superintendent serving in the capacity authorized in subdivision (a) shall be considered the employer for purposes of subdivisions (a) and (f) of Section 45125.

(c) Upon receipt from the Department of Justice of a report of conviction of a serious or violent felony, the designated school district or county superintendent shall communicate that fact to the participating districts and remove the affected employee from the common list of persons eligible for employment.

(d) Upon receipt from the Department of Justice of a criminal history record or report of subsequent arrest for any person on a common list of persons eligible for employment, the designated school district or county superintendent shall give notice to the superintendent of any participating district or a person designated in writing by that superintendent, that the report is available for inspection on a confidential basis by the superintendent or authorized designee, at the office of the designated school district or county superintendent, for a period of 30 days following receipt of notice to enable the employing school district to determine whether the employee meets that district's criteria for continued employment. The designated school district or county superintendent shall not release a copy of that information to any participating district or any other person, shall retain or dispose of the information in the manner required by law after all participating districts have had an opportunity to inspect it in accordance with this section, and shall maintain a record of all persons to whom the information has been shown that shall be available to the Department of Justice to monitor compliance with the requirements of confidentiality contained in this section.

(e) Any agency processing Department of Justice responses pursuant to this section shall submit an interagency agreement to the Department of Justice to establish authorization to submit and receive information pursuant to this section.

(f) All information obtained from the Department of Justice is confidential. Every agency handling Department of Justice information shall ensure the following:

- (1) No recipient may disclose its contents or provide copies of information.
- (2) Information received shall be stored in a locked file separate from other files, and shall only be accessible to the custodian of records.
- (3) Information received shall be destroyed upon the hiring determination in accordance with subdivision (a) of Section 708 of Title 11 of the California Code of Regulations.
- (4) Compliance with destruction, storage, dissemination, auditing, backgrounding, and training requirements as set forth in Sections 700 through 708, inclusive, of Title 11 of the California Code of Regulations and Section 11077 of the Penal Code governing the use and security of criminal offender record information is the responsibility of the entity receiving the information from the Department of Justice.” **(Revised 3-05)**

23. FINGERPRINTS; EMPLOYEES OF ENTITY PROVIDING SERVICES TO SCHOOL DISTRICT; CONTACT WITH PUPILS – 45125.1 EC. The following section is quoted from the EC:

“45125.1. (a) Except as provided in subdivisions (b) and (c), if the employees of any entity that has a contract with a school district, as defined in Section 41302.5, to provide any of the following services may have any contact with pupils, those employees shall submit or have submitted their fingerprints in a manner authorized by the Department of Justice together with a fee determined by the Department of Justice to be sufficient to reimburse the department for its costs incurred in processing the application:

- (1) School and classroom janitorial.
- (2) Schoolsite administrative.
- (3) Schoolsite grounds and landscape maintenance.
- (4) Pupil transportation.
- (5) Schoolsite food-related.

(b) This section shall not apply to an entity providing any of the services listed in subdivision (a) to a school district in an emergency or exceptional situation, such as when pupil health or safety is endangered or when repairs are needed to make school facilities safe and habitable.

(c) This section shall not apply to an entity providing any of the services listed in subdivision (a) to a school district when the school district determines that the employees of the entity will have limited contact with pupils. In determining whether a contract employee has limited contact with pupils, the school district shall consider the totality of the circumstances, including factors such as the length of time the contractors will be on school grounds, whether pupils will be in proximity with the site where the contractors will be working, and whether the

contractors will be working by themselves or with others. If a school district has made this determination, the school district shall take appropriate steps to protect the safety of any pupils that may come in contact with these employees.

(d) A school district may determine, on a case-by-case basis, to require an entity providing schoolsite services other than those listed in subdivision (a) or those described in Section 45125.2 and the entity's employees to comply with the requirements of this section, unless the school district determines that the employees of the entity will have limited contact with pupils. In determining whether a contract employee will have limited contact with pupils, the school district shall consider the totality of the circumstances, including factors such as the length of time the contractors will be on school grounds, whether pupils will be in proximity with the site where the contractors will be working, and whether the contractors will be working by themselves or with others. If a school district makes this determination, the school district shall take appropriate steps to protect the safety of any pupils that may come in contact with these employees. If a school district requires an entity providing services other than those listed in subdivision (a) and its employees to comply with the requirements of this section, the Department of Justice shall comply with subdivision.

(e) (1) The Department of Justice shall ascertain whether the individual whose fingerprints were submitted to it pursuant to subdivision (a) has been arrested or convicted of any crime insofar as that fact can be ascertained from information available to the department. Upon implementation of an electronic fingerprinting system with terminals located statewide and managed by the Department of Justice, the department shall ascertain the information required pursuant to this section within three working days. When the Department of Justice ascertains that an individual whose fingerprints were submitted to it pursuant to subdivision (a) has a pending criminal proceeding for a felony as defined in Section 45122.1 or has been convicted of a felony as defined in Section 45122.1, the department shall notify the employer designated by the individual of that fact. The notification shall be delivered by telephone or electronic mail to the employer.

(2) The Department of Justice, at its discretion, may notify the school district in instances when the employee is defined as having a pending criminal proceeding described in Section 45122.1 or has been convicted of a felony as defined in Section 45122.1.

(3) The Department of Justice may forward one copy of the fingerprints to the Federal Bureau of Investigation to verify any record of previous arrests or convictions of the applicant. The Department of Justice shall review the criminal record summary it obtains from the Federal Bureau of Investigation and shall notify the employer only as to whether or not an applicant has any convictions or arrests pending adjudication for offenses which, if committed in California, would have been punishable as a violent or serious felony. The Department of Justice shall not provide any specific offense information received from the Federal Bureau of Investigation. The Department of Justice shall provide written notification to the contract employer only concerning whether an applicant for employment has any

conviction or arrest pending final adjudication for any of those crimes, as specified in Section 45122.1, but shall not provide any information identifying any offense for which an existing employee was convicted or has an arrest pending final adjudication.

(f) An entity having a contract as specified in subdivision (a) and an entity required to comply with this section pursuant to subdivision (d) shall not permit an employee to come in contact with pupils until the Department of Justice has ascertained that the employee has not been convicted of a felony as defined in Section 45122.1.

(1) This prohibition does not apply to an employee solely on the basis that the employee has been convicted of a felony if the employee has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(2) This prohibition does not apply to an employee solely on the basis that the employee has been convicted of a serious felony that is not also a violent felony if that employee can prove to the sentencing court of the offense in question, by clear and convincing evidence, that he or she has been rehabilitated for the purposes of schoolsite employment for at least one year. If the offense in question occurred outside this state, then the person may seek a finding of rehabilitation from the court in the school district in which he or she is resident.

(g) An entity having a contract as specified in subdivision (a) and an entity required to comply with this section pursuant to subdivision (d) shall certify in writing to the school district that neither the employer nor any of its employees who are required by this section to submit or have their fingerprints submitted to the Department of Justice and who may come in contact with pupils have been convicted of a felony as defined in Section 45122.1.

(h) An entity having a contract as specified in subdivision (a) on the effective date of this section and an entity required to comply with this section pursuant to subdivision (d) by a school district with which it has a contract on the effective date of the amendments made to this section during the 1997-98 Regular Session shall complete the requirements of this section within 90 days of that date.

(i) For purposes of this section, a charter school shall be deemed to be a school district.

(j) Where reasonable access to the statewide electronic fingerprinting network is available, the Department of Justice may mandate electronic submission of the fingerprint cards and other information required by this section.” **(Revised 3-05)**

24. NOTICE TO EMPLOYEE REGARDING ALCOHOL BLOOD LEVELS – 34501.16 VC. The following section is quoted from the VC:

“34501.16. (a) Every employer of a commercial driver shall provide information to that employee at the time of hiring and to all employed commercial drivers annually, concerning all of the following:

(1) The prohibition against driving a commercial motor vehicle with over 0.04 percent or more, by weight, alcohol in his or her blood on and after January 1, 1992.

(2) The requirement to be placed out of service for 24 hours if the person's blood-alcohol concentration is tested to be 0.01 percent or more, by weight, on and after January 1, 1992.

(b) The Department of Motor Vehicles shall include the information prescribed in subdivision (a), together with information concerning the alcohol concentration in a person's blood resulting from consumption of alcoholic beverages, in each publication of the commercial driver's handbook published after January 1, 1990.

(c) This section shall remain operative until the director determines that federal regulations adopted pursuant to the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. Sec. 2701 et seq.) do not require the state to implement the prohibitions and requirements in paragraphs (1) and (2) of subdivision (a).

(d) The director shall submit a notice of the determination under subdivision (c) to the Secretary of State, and this section shall be repealed upon the receipt of that notice." **(Revised 3-05)**

25. TESTING DRIVERS FOR CONTROLLED SUBSTANCES AND ALCOHOL USE; RECORDKEEPING REQUIREMENTS – 34520 VC. The following section is quoted from the VC:

“34520. (a) Motor carriers and drivers shall comply with the controlled substances and alcohol use, transportation, and testing requirements of the United States Secretary of Transportation as set forth in Part 382 (commencing with Section 382.101) of, and Sections 392.5(a)(1) and 392.5(a)(3) of, Title 49 of the Code of Federal Regulations.

(b) (1) Every motor carrier shall make available for inspection, upon the request of an authorized employee of the department, copies of all results and other records pertaining to controlled substances and alcohol use and testing conducted pursuant to federal law, as specified in subdivision (a), including those records contained in individual driver qualification files.

(2) For the purposes of complying with the return-to-duty alcohol or controlled substances test requirements, or both, of Section 382.309 of Title 49 of the Code of Federal Regulations and the followup alcohol or controlled substances test requirements, or both, of Section 382.311 of that title, the department may use those test results to monitor drivers who are motor carriers.

(3) No evidence derived from a positive test result in the possession of a motor carrier shall be admissible in a criminal prosecution concerning unlawful possession, sale, or distribution of controlled substances.

(c) Any drug or alcohol testing consortium, as defined in Section 382.107 of Title 49 of the Code of Federal Regulations, shall mail a copy of all drug and alcohol positive test result summaries to the department within three days of the

test. This requirement applies only to drug and alcohol positive tests of those drivers employed by motor carriers who operate terminals within this state.

(d) A transit agency receiving federal financial assistance under Section 3, 9, or 18 of the Federal Transit Act, or under Section 103 (e)(4) of Title 23 of the United States Code, shall comply with the controlled substances and alcohol use and testing requirements of the United States Secretary of Transportation as set forth in Part 655 (commencing with Section 655.1) of Title 49 of the Code of Federal Regulations.

(e) The owner-operator shall notify all other motor carriers with whom he or she is under contract when the owner-operator has met the requirements of subdivision (c) of Section 15242. Notwithstanding subdivision (i), a violation of this subdivision is an infraction.

(f) Except as provided in Section 382.301 of Title 49 of the Code of Federal Regulations, an applicant for employment as a commercial driver or an owner-operator seeking to provide transportation services and meeting the requirements of subdivision (b) of Section 34624, may not be placed on duty by a motor carrier until a preemployment test for controlled substances and alcohol use meeting the requirements of the federal regulations referenced in subdivision (a) have been completed and a negative test result has been reported.

(g) An applicant for employment as a commercial driver or an owner-operator, seeking to provide transportation services and meeting the requirements of subdivision (b) of Section 34624, may not be placed on duty by a motor carrier until the motor carrier has completed a full investigation of the driver's employment history meeting the requirements of the federal regulations cited under subdivision (a). Every motor carrier, whether making or receiving inquiries concerning a driver's history, shall document all activities it has taken to comply with this subdivision.

(h) A motor carrier that utilizes a preemployment screening service to review applications is in compliance with the employer duties under subdivisions (e) and (f) if the preemployment screening services that are provided satisfy the requirements of state and federal law and the motor carrier abides by any findings that would, under federal law, disqualify an applicant from operating a commercial vehicle.

(i) It is a misdemeanor punishable by imprisonment in the county jail for six months and a fine not to exceed five thousand dollars (\$5,000), or by both the imprisonment and fine, for any person to willfully violate this section. As used in this subdivision, "willfully" has the same meaning as defined in Section 7 of the Penal Code.

(j) This section does not apply to a peace officer, as defined in Section 830.1 or 830.2 of the Penal Code, who is authorized to drive vehicles described in Section 34500 if that peace officer is participating in a substance abuse detection program within the scope of his or her employment." **(Revised 3-05)**